

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference ROG001	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/NZ2004/000243	International filing date (<i>day/month/year</i>) 6 October 2004	Priority date (<i>day/month/year</i>) 6 October 2003	
International Patent Classification (IPC) or national classification and IPC G06F 17/30 (2006.01)			
Applicant EFFECTIVE MANAGEMENT SYSTEMS LIMITED et al			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (*sent to the applicant and to the International Bureau*) a total of 9 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand 1 June 2005	Date of completion of this report 06 January 2006
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer Matthew Hollingworth Telephone No. (02) 6283 2024

Box No. I Basis of the report1. With regard to the **language**, this report is based on:

- ☒ The international application in the language in which it was filed
- ☐ A translation of the international application into _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3(a) and 23.1 (b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages **1, 3-18** as originally filed/furnished
- pages* **25** received by this Authority on **12 October 2005** with the letter of **the same date**
- pages* **2** received by this Authority on **20 December 2005** with the letter of **the same date**
- ☒ the claims:
- pages as originally filed/furnished
- pages* as amended (together with any statement) under Article 19
- pages* **19-24** received by this Authority on **20 December 2005** with the letter of **the same date**
- pages* received by this Authority on with the letter of
- ☒ the drawings:
- pages **2** as originally filed/furnished
- pages* **1** received by this Authority on **28 June 2005** with the letter of **the same date**
- pages* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 2-11, 13-23, 25-28	YES
	Claims 1, 12, 24, 29-34	NO
Inventive step (IS)	Claims	YES
	Claims 1-34	NO
Industrial applicability (IA)	Claims 1-34	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

- D1: WO 2001/053941 A2 (THE DELFIN PROJECT, INC.), 26 July 2001
- D8: WO 1998/025198 A2 (STREAMIX CORPORATION), 11 June 1998
- D11: *RDF Site Summary (RSS) 1.0* specification
<http://web.archive.org/web/20021014094554/web.resource.org/rss/1.0/spec>
- D12: *RSS 2.0* specification
<http://web.archive.org/web/20030801072832/blogs.law.harvard.edu/tech/rss>

NOVELTY (N) claims 1, 12, 24, 29-34

Claims 1, 12, 24 and 29-34: These claims lack novelty in comparison to document D1, which discloses all the features of the claims. In particular, the cited software is a "stand-alone application" and detects wait events "independently of the other programs being run by the computer and [does not require] any modification of the other programs," as claimed – this is stated succinctly on page 7, lines 1-3, and is described in detail on pages 19-24. Figure 4 also clearly shows that the hyperstitial application operates independently of the web browser by trapping browser events.

Similar comments apply in relation to D8 against independent claims 1 and 12, at least.

INVENTIVE STEP (IS) claims 1-34

Claims 1, 12, 24 and 29-34: As above.

Claims 2-7, 13-17 and 21-27: The additional features added by these dependent claims are not seen to confer inventive step to the claimed invention in light of D1. They relate to user preferences, the manner of presentation of the data display, and other details of implementation, are considered to be commonplace or otherwise straightforward.

Claims 8-11, 18-20 and 28: These claims do not involve an inventive step in light of D1, when combined with either D11 or D12, each of which describes a syndication standard. (It is obvious to make these combinations of documents, since RSS is currently the de facto mechanism for distributing data updates of the sort described in D1.)